



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.348 OF 2023

MOHAMMAD NASIM KHALIL SHAIKH ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. N. M. Nadar for the Applicant.
Ms. Veera Shinde, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 07, 2023

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP for the State.
- 2.** This is an application for bail in respect of the offence punishable under Sections 302 and 201 of the Indian Penal Code (hereafter 'IPC' for short) registered on 09.08.2019 vide C.R. No.737 of 2019 with Virar Police Station.
- 3.** There are in all three accused. The applicant is the accused no.2. The applicant was arrested on 14.08.2019. The case of the prosecution is that the accused No.1 owed some money to the deceased. The deceased had come to the godown where the accused Nos.2 and 3 were present

along with accused No.1 to demand his money back. It is the accusation that the accused assaulted the deceased with a knife. The dead body of the deceased was found on 09.08.2019. The applicant who is the accused No.2 along with other accused was last seen in the company of the deceased on 07.08.2019. The cause of death is due to respiratory failure due to a cut throat injury. The knife is recovered at the instance of accused No.1. There is recovery of blood stained clothes of the accused at the instance of the applicant from the open space after 15 days. The case is based on circumstantial evidence. The blood stained knife was recovered at the instance of the accused No.1. Learned counsel for the applicant invited my attention to the order dated 02.03.2022 of the Hon'ble Supreme Court enlarging the accused No.3 on bail.

4. The applicant is in custody for more than four years. The charge has not been framed. The trial is likely to take a long time to conclude.

5. Though learned APP vehemently opposed the application for bail contending that the role of the

co-accused No.3 who is enlarged on bail by the Supreme Court cannot be said to be similar as there is a recovery of blood stained clothes at the instance of the applicant, in the facts and circumstances of the present case, I am inclined to enlarge the applicant on bail as the case is based entirely on the circumstantial evidence. The investigation is complete and the charge-sheet has been filed. There are no criminal antecedents reported against the applicant. Stringent conditions need to be imposed as to ensure that the applicant attends the trial. In the submission of learned APP the applicant is not a permanent resident of Maharashtra. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant-Mohammad Nasim Khalil Shaikh in connection with C.R. No.737 of 2019 registered with Virar Police Station shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.
- (c) The applicant shall attend the Investigating Officer of Virar Police Station twice a month on the first

and third Sunday of every month between 11.00 a.m. to 1.00 p.m.

(d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(e) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(f) The applicant shall not leave State of Maharashtra without the permission of the trial Court.

6. The application is disposed of.

(M. S. KARNIK, J.)